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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,417	03/16/2004	Matthew During	102182-0039	4010
21125 7590 04/18/2008 NUTTER MCCLENNEN & FISH LLP WORLD TRADE CENTER WEST 155 SEAPORT BOULEVARD BOSTON, MA 02210-2604			EXAMINER FALK, ANNE MARIE	
			ART UNIT 1632	PAPER NUMBER
			NOTIFICATION DATE 04/18/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@nutter.com

UNITED STATES DEPARTMENT OF COMMERCE  
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Serial Number	Filing Date	First Named Applicant	Attorney Docket No.
10/802,417	3/16/2004	During et al.	102182-0039

EXAMINER	
Anne-Marie Falk, Ph.D.	
ART UNIT	PAPER NUMBER
1632	200804

**Please find below a communication from the EXAMINER in charge of this application**  
Commissioner of Patents

The reply filed on January 9, 2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The amendment format does not comply with the requirements of 37 CFR 1.121. 37 CFR 1.121(c)(2) provides that amended claims must include appropriate markings to show the changes that have been made relative to the immediate prior version of the claim. However, the markings for Claims 1 and 13 are not consistent with the prior versions of the claims. Claim 1 now includes double parentheses at line 5, where previously only single parentheses were present. However, the added set of parentheses are not underlined and therefore it is unclear if the change is intentional or inadvertent. Claim 13 also introduces double parentheses, at line 7, where previously only single parentheses were present. The newly added set of parentheses are not underlined and therefore it is unclear if the change is intentional or inadvertent. Furthermore, at line 8 a new set of parentheses are introduced with no underlining to show the change being made. Thus, it is unclear if the change is intentional or inadvertent. Appropriate correction is required. See 37 CFR 1.121(c)(2).

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).** In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne-Marie Falk, Ph.D. whose telephone number is (571) 272-0728. The examiner can normally be reached Monday through Friday from 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras, can be reached on (571) 272-4517. The central official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Anne-Marie Falk, Ph.D.

/Anne-Marie Falk/  
Primary Examiner, Art Unit 1632

# **Notice of Non-Compliant Amendment (37 CFR 1.121)**

Application No.

10/802,417

Examiner

Anne-Marie Falk, Ph.D.

Applicant(s)

DURING ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 09 January 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See attached letter.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## **TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an **after-final** amendment or an amendment filed **after** allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Anne-Marie Falk/ Primary Examiner, AU 1632

Legal Instruments Examiner (LIE), if applicable

(571)272-0728

Telephone No.